REMARKS

This application has been reviewed in light of the Office Action mailed on December 27, 2007. Claims 1-14 and 18 are now presented for examination. Claims 12 and 13 have been amended. Claims 1 and 12 are independent. Favorable review is respectfully requested.

Claims 12 and 13 have been amended to make minor editorial corrections.

Claims 1-11 were rejected under 35 U.S.C. § 102(b) as anticipated by Janik (U.S. Patent Application Publication No. 2002/0013852). The applicants respectfully submit that independent claim 1 is patentably distinct from the cited art, for the following reasons.

Claim 1 is directed to a processor-readable medium embodying a set of instructions. These instructions, when read by a programmable processor of a first computing device, result in the processor performing a process including receiving, communicating and transmitting steps. In particular, claim 1 recites a step of receiving, by the first computing device, a request from a second computing device; this request comprises a request for at least some of the metadata information collected at the first computing device. Claim 1 also recites a step of communicating, by the first computing device, to the second computing device the requested metadata information and an identifier for each media file described by the requested metadata information; the identifier uniquely identifies the media file. Furthermore, claim 1 recites a step of receiving, by the first computing device, from the second computing device a request to transfer a media file selected by the user at the second computing device; this request includes the identifier of the selected media file. By way of non-limiting example, for context, in an embodiment (specification, paragraph 44), a client (second computing device) requests metadata from an agent (first computing device). The metadata returned to the client includes an identifier, typically a universal resource identifier (URI). The agent then receives from the client a request for streaming of a particular media file, identified by the URI.

It is well established that to anticipate a claim, the reference must teach every element of the claim; the identical invention must be shown in the reference in as complete detail as is contained in the claim. MPEP § 2131. Janik fails to disclose or suggest at least the above-noted steps recited in claim 1.

Janik is understood to disclose a system in which a user's personal computer (PC) runs a system control application 18 (Janik, paragraphs 72-74, and Figure 1). Application 18

includes a graphical user interface (GUI) module 46, which in turn includes a content editor 24 (paragraph 131). The user employs the content editor to group files into user-defined playlists (paragraph 132). A client device 78, such as an audio playback device 86, receives a stream of content from the PC (paragraphs 117-118). Controls on the client devices, such as a play button on audio playback device 86, cause the client devices to request text descriptors associated with the playlists and the associated content (paragraph 120).

According to Janik, the PC user creates a playlist of media selections which are then transmitted to the client devices. In contrast to the above-noted step of receiving a request for metadata in claim 1, the PC of Janik does not receive any requests for metadata from client devices. The PC of Janik therefore cannot communicate metadata in response to such a request, let alone an identifier for each media file described by the requested metadata information. It follows that in Janik, a playlist is not compiled in accordance with any identifiers received from client devices, but rather in accordance with pre-selection by the user (see Janik, paragraph 132). A "request" in Janik (paragraph 120) from a client device (e.g. playback device 86) involves control over playing of a selection which already appears on a playlist; this "request" is in no way a request for metadata as recited in claim 1.

Since Janik does not disclose all of the features recited in claim 1, the claim is not anticipated by that reference. Nor can Janik alone render the claim obvious, as there is no teaching or suggestion of the above-noted missing claim elements.

Claims 12-14 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Janik. The applicants respectfully submit that independent claim 12 is patentable over the cited art, for the following reasons.

Claim 12 is directed to a processor-readable medium embodying a set of stored instructions. These instructions, when read by a programmable processor at a local computing device, result in the processor performing a process including a receiving step. In this receiving step, a requested media file is received from a remote computing device's agent process. A user thus is able to select from the media files available to the user at the remote computing device one or more media files to be experienced by the user at the local computing device. As described in detail above, Janik neither discloses nor suggests such a receiving step. In particular, a media player device (client device 78) of Janik, with which the media file would be experienced, is not used to select any media files. According to Janik, selections of

media files are made by the user at the other location (such as the PC) and used to generate a playlist which then is transmitted to the player devices. The above-noted feature (at least) of claim 12 is therefore neither taught nor suggested by the Janik reference.

Claim 18, dependent from claim 12, was also rejected under 35 U.S.C. § 103(a) as unpatentable over Janik in view of Jacoby (U.S. Patent Application Publication No. 2004/0254887). Jacoby is understood to disclose a system for generating a streaming media file which includes a metering event; a user meter is ticked (that is, a user account is updated) as the streaming media file is played on a client media player. However, Jacoby does not disclose or suggest a receiving step as described above, and thus does not remedy the defects of Janik as a reference against claim 12. Dependent claim 18 therefore is not rendered obvious by Janik, Jacoby or a combination of those references.

The other claims in the application are each dependent from one or another of the independent claims discussed above and are believed to be patentable at least for the same reasons. Since each dependent claim is deemed to define an additional aspect of the invention as presently claimed, however, the consideration of each claim on its merits is respectfully requested.
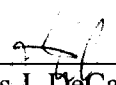
In view of the foregoing amendments and remarks, the applicants respectfully request favorable consideration and early passage to issue of the present application. The Examiner is respectfully requested to contact the undersigned attorney by telephone if any issues remain which would delay a Notice of Allowance. An additional interview with the Examiner and his supervisor is respectfully requested to resolve any such issues.

No fees are believed to be due. The Commissioner nevertheless is hereby authorized to charge any fees which may be required for this Amendment to Deposit Account No. 50-1561 of Greenberg Traurig, LLP.

The applicants' attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

Respectfully submitted,

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